

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE**

**JOHN DOE, SR. on behalf of his minor child, )  
J.A., )**

**Plaintiff, )**

**v. )**

**Case No. \_\_\_\_\_**

**WENDY'S OF BOWLING GREEN, INC., )**

**Defendants. )**

**COMPLAINT**

Plaintiff, J.A., a minor child, by and through next friend of the Plaintiff, John Doe, Sr., father of Plaintiff, brings this cause of action against Defendants, Wendy's of Bowling Green, Inc., for sexual harassment based upon Plaintiff's complaints of sexual harassment, all in violation of the Tennessee Human Rights Act, T.C.A. § 4-21-101, *et. seq.* (hereinafter "THRA").

**PARTIES**

1. J.A. (hereinafter "Plaintiff") is a minor citizen and resident of Nashville, Davidson County, Tennessee. Suit is filed on his behalf by his father and next friend, John Doe, a citizen and resident of Nashville, Davidson County, Tennessee. The names of Plaintiff and Plaintiff's next friend are withheld based upon the sexual nature of the allegations contained herein regarding a minor child.

2. Wendy's of Bowling Green, Inc. (hereinafter "Defendant Wendy's") is a Foreign Corporation formed in Kentucky, doing business in Nashville, Tennessee whose registered agent is CT Corporation System, 300 Montvue Road, Knoxville, Tennessee 37919-5546. Defendant is defined as an employer under the THRA.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction pursuant to 28 U.S.C. 1332 as the parties are citizens of separate states and the amount in controversy exceeds \$75,000.00.

4. Venue is proper in this Court, as the acts alleged herein occurred in the Middle District of Tennessee at Wendy's where Plaintiff was employed.

### **FACTS**

5. When the events alleged herein occurred, Plaintiff, an African-American minor child, was a High School Junior with excellent grades at Antioch High School in Nashville, Davidson County, Tennessee.

6. Plaintiff became employed at Wendy's at 2600 Murfreesboro Road, Nashville, Tennessee 37217 in August of 2023 at a rate of \$13.00 per hour. At the time, Plaintiff had a regular work schedule of five (5) days per week in the evening hours, generally until closing time, after school and athletics practice.

7. Plaintiff worked primarily under the supervision of Deangelo Hawthorne, the night manager at Wendy's. Plaintiff also worked for Ms. Maria Orozco, a twenty-nine (29) year old shift leader at the store who also worked underneath the authority and supervision of Hawthorne. Plaintiff also worked for and with another manager of the store, Ms. Ashley Morales.

8. It was commonly known amongst the store's employees that Hawthorne is a homosexual adult male and Ms. Orozco is a heterosexual adult female.

9. Hawthorne was known by management to sexually harass young, male employees during his employment Wendy's. According to store employees, Hawthorne was transferred to the Murfreesboro Road store based on sexually harassing acts he took in his former role as manager of his prior store.

10. While employed by Defendant, Hawthorne subjected Plaintiff to unwelcome sexually offensive comments, pictures and actions. These comments and actions were both objectively and subjectively offensive, constituting a hostile work environment. The behavior included subjecting Plaintiff to explicit sexual comments, making lewd comments about Plaintiff's body and showing pictures of his private parts and buttocks.

11. Hawthorne had a history of similar behavior but had neither been terminated nor otherwise stopped from acting inappropriately in the workplace.

12. Hawthorne communicated questions and statements to his employees such as:

- a. Oh, so are you getting any??
- b. It Bout to be 2 years! No head or nothing?
- c. Do you at least stroke the thang?
- d. Damn N----ah! (racial slur omitted). Yu are BACKED UP Uncle Ruckus!!
- e. Your dick needs release.
- f. Ejaculation is good for [anger issues]. It helps the body and mind. It helps relieve stress.
- g. Have yu ever nuted from getting top?
- h. Oh ok well you wouldn't know. No one has done it to you who knows what they are doing. That means you never got throat before. If yu are ever curious I'm willing to show you how much stress it relieves.
- i. "age becomes only a number," and "when it comes to sexual things it has to reach a certain number before it doesn't matter...yu calling me a old man is not accurate."
- j. "If I choose to have a 18 year old boyfriend it wouldn't be against the law..."
- k. Because he has reach a number that doesn't matter."
- l. Rather than me have sex with him at 16...then it's all about age"
- m. "But that's only if the person is simple minded and tells their business to everyone."
- n. "I am 1 other who absolutely loves 'the sport.'
- o. Because it put a certain feeling in my throat...from what guys say I'm the goat."
- p. "Don't go showing and telling my business to everybody like yal be doing..."
- q. "& Ima tell yu like I told Jaden yu need to stop wearing then underwear because I'm always seeing yal fixing yals dick..."
- r. [referencing seeing the children adjust their genitals] "my eyes be trying not to look but my brain tell me to look and other things."
- s. "Let me see your dick."
- t. "Me and you can both try to give Jaden head.
- u. I might have to bribe Cechario to let me give him head.

13. In addition to the text messages above, Defendant sent Plaintiff videos of gay, nude men in the shower by text message, which regularly included discussion of giving and/or receiving oral sex, masturbation and toilet-related sex talk.

14. In person and during Plaintiff's work shifts, Hawthorne on an every-other-day basis made sexually-charged, harassing comments such as "you need to get some different underwear because I can see your dick," "stop playing with yourself," and other unwelcome sex talk. Because Hawthorne was the night manager, J.A. did not know how to stop the ongoing harassment.

15. Plaintiff later complained of the above-referenced behavior to another manager, Ashley

16. Morales who was a manager during other hours than Plaintiff's work hours, who failed to instruct Plaintiff as to how to address sexual harassment. Rather, Ms. Morales stated "I'm glad to you didn't cause a scene like the other boys." Instead, she made a statement [which turned out to be false] that Plaintiff shouldn't worry, because "[Hawthorne] won't touch you."

17. Ms. Morales never instructed Plaintiff to file a charge, contact human resources to make a claim, or contact police. After reporting to Ms. Morales, the behavior of Hawthorne and finding out that he would receive no help from management at the store, Plaintiff believed that he had done all he could to properly report the sexually harassing behavior. Plaintiff was never informed on how to report sexual harassment or to whom sexual harassment should be reported.

18. Hawthorne, during work shifts at Wendy's regularly put himself in close proximity to Plaintiff, brushing his hands and body against Plaintiff's buttocks.

19. Hawthorne would make sexual comments and stare at Plaintiff's backside if he were to bend over during his work. Knowing that Plaintiff would change in the restroom after school into his work clothing, Hawthorne would regularly come into the restroom, make sexual comments and laugh while Plaintiff was in a state of undress. This behavior was open, obvious and unwelcome.

20. On or about October 25, 2023, at approximately 10:30 PM during work hours but after the restaurant was devoid of customers, Hawthorne mentioned in the presence of Ms. Orozco and Plaintiff “looked upset.” He instructed Ms. Orozco to “go to the bathroom and give him head.” Ms. Orozco and Plaintiff had no sexual or other relationship prior to October 25, 2023 other than as shift-supervisor and employee.

21. Plaintiff and Ms. Orozco, fearing that each would lose his or her job if they refused, complied with their supervisor’s demand. On November 9, 2023, Ms. Orozco was arrested and charged with Felony Aggravated Statutory Rape for her unlawful actions (case number GS1015526, General Sessions Court for Davidson County, Tennessee). On January 3, 2024, the district attorney for Davidson County, Tennessee declined to prosecute the action upon information and belief based upon the fact that she was coerced by management to engage in the behavior.

22. On or about November 16, 2023, Ms. Morales told Plaintiff that she had warned him of problems with Hawthorne, that she had felonies on her record, and that she couldn’t stop him from being raped, because it wasn’t her responsibility. She said she could do nothing to stop it. She stated that other Wendy’s managers should have done something to prevent sexual harassment and that she had done everything by the book. She also claimed that the store manager had spoken with Hawthorne two (2) or three (3) times about acting in a sexually inappropriate manner.

### **CAUSE OF ACTION**

23. The conduct described herein violates the Tennessee Human Rights Act, T.C.A. § 4-21-101, *et. seq.* on the basis of sexual harassment in a hostile work environment.

### **DAMAGES**

24. As a result of the harassment, Plaintiff has suffered and will continue to suffer, emotional distress, mental anguish and loss of enjoyment of life, embarrassment and humiliation, for all of which he is entitled to compensatory damages under the THRA.

25. Plaintiff further sues for attorney fees, court costs, and discretionary costs if he is the prevailing party in this litigation, as authorized by THRA.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff prays for the following relief:

1. That process issue, requiring Defendant to answer this Complaint in the time provided by law;
2. After the discovery process, that this case be heard on its merits;
3. That Plaintiff be awarded \$600,000.00 in compensatory damages;
4. That Plaintiff be awarded attorney fees, court costs, discretionary costs and all further relief to which he is entitled; and
5. That Plaintiff be awarded all further and general relief that the Court deems appropriate in this case.

Respectfully submitted,

/s/ Paul W. Moser

**Paul W. Moser, BPR No. 022205**

**Lisa P. Webb, BPR No. 033047**

*Attorneys for Plaintiff*

5409 Maryland Way, Suite 333

Brentwood, Tennessee 37027

(615) 662-3697

Fax: (615) 469-6871

[paul.@lawyerspeoplelove.com](mailto:paul.@lawyerspeoplelove.com)

[lisapwebb@yahoo.com](mailto:lisapwebb@yahoo.com)